



DÁIL ÉIREANN

AN BILLE IASCAIGH MHARA AGUS DLÍNSE MUIRÍ 2005 SEA-FISHERIES AND MARITIME JURISDICTION BILL 2005

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE IASCAIGH MHARA AGUS DLÍNSE MUIRÍ 2005 —AN TUARASCÁIL

SEA-FISHERIES AND MARITIME JURISDICTION BILL 2005 —REPORT

Leasuithe Amendments

1. In page 9, line 7, after “1988” to insert the following:

“AND THEREBY TO MAKE PROVISION FOR AN APPROPRIATE SYSTEM OF PENALTIES”.

—Thomas Broughan.

2. In page 9, line 17, before “TO” to insert the following:

“TO MAKE FURTHER AND BETTER PROVISIONS IN RELATION TO THE RE-REGISTRATION OF MERCANTILE SHIPPING,”.

—Thomas Broughan.

3. In page 10, between lines 39 and 40, to insert the following:

“(3) Each year the Minister shall present for approval to each of the Houses of the Oireachtas a Sustainability Impact Assessment of Sea Fisheries for the Exclusive Economic Zone and Exclusive Fishing Limits of Ireland (as defined in *section 87* and *section 88*) based on consultation with all relevant stakeholders, and this assessment shall, as far as practicable, be presented in advance of the date of any negotiations by the Minister on the common fisheries policy in regard to national quotas, total allowable catches or other fish capture mechanisms in the sea areas in question.”.

—Thomas Broughan.

4. In page 10, lines 40 and 41, to delete “to this Act”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

5. In page 10, after line 41, to insert the following:

“(2) Subject to *sections 78, 85(3), 92(2)* and *97(2)*, every order or regulation or licence, permit or authorisation made or granted under an enactment or a provision of an enactment repealed by *subsection (1)** is revoked.”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

[**This is the appropriate reference if this amendment is accepted.*]

6. In page 11, between lines 3 and 4, to insert the following:

6.—(1) This section applies to such summary offences under the Sea Fisheries Acts 2003 and 2006 and the Fisheries Acts 1959 to 2006 as may be declared by the Minister by regulations, made after consultation with the Minister for Justice, Equality and Law Reform, to be fixed charge offences and an offences standing so declared is referred to in this section as a fixed charge offence.

(2) Where an authorised officer has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person—

- (a) if the officer identifies the person, the authorised officer shall serve, or cause to be served, personally or by post, on the person a notice under this section,
- (b) if the authorised officer does not identify the person and the offence involves the use of a vessel, the authorised officer shall serve, or cause to be served, personally or by post, on the registered owner of the vessel a notice under this section.

(3) Where—

- (a) a notice under this section is served on the registered owner of a vessel or affixed to such a vessel, and
- (b) the registered owner of the vessel was not using the vessel at the time of the commission of the alleged offence to which the notice relates, the registered owner shall—
 - (i) not later than 28 days after the date of the notice give or send to an authorised officer at the place specified in the notice a document in the prescribed form signed by the registered owner and stating the name and address of the person who was using the vessel at the time of such commission, and
 - (ii) give or send to an authorised officer within such period as may be specified by the authorised officer at the place aforesaid such other information within his or her knowledge or procurement as the authorised officer may reasonably request for the purpose of identifying, and establishing the whereabouts of, the person referred to in *subparagraph (i)* of this paragraph.

(4) The Authority shall, not later than 28 days after a document referred to in *subsection (3)* of this section containing the name and address of the person who was using the vessel concerned at the time of the commission of the alleged offence concerned is given or sent to an authorised officer, cause a notice under this section to be served, personally or by post, on the person.

(5) A notice under this section shall be in the prescribed form.

(6) If a notice is served pursuant to *subsection (2)(a)* or *(4)* of this section, it shall, without prejudice to the generality of *subsection (5)* of this section, contain a statement to the effect that—

- (a) the person on whom it is served is alleged to have committed an offence specified in the notice,

- (b) the person may, during the period of 28 days beginning on the date of the notice, make to an authorised officer at a specified place a payment of a fixed charge of a prescribed amount accompanied by the notice, duly completed,
- (c) if the person does not make the payment specified in *paragraph (b)* of this subsection, during the period so specified, accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of that period, make to an authorised officer at a specified place a payment of a fixed charge of an amount 50 per cent greater than the prescribed amount referred to in *paragraph (b)* of this subsection accompanied by the notice, duly completed, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the periods specified in the notice or, if a payment so specified accompanied by the notice, duly completed, is made during the appropriate period so specified in relation to the payment, at all.

(7) If a notice is served or affixed to a vessel pursuant to *subsection (2)(b)* of this section, it shall, without prejudice to the generality of *subsection (5)* of this section, contain a statement to the effect that—

- (a) an offence specified in the notice is alleged to have been committed,
- (b) a person liable to be prosecuted for the offence may during the period of 28 days beginning on the date of the notice, make to an authorised officer at a specified place a payment of a fixed charge of a prescribed amount accompanied by the notice, duly completed,
- (c) if a person such as aforesaid does not make the payment specified in *paragraph (b)* of this subsection during the period so specified accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of the period specified in that paragraph, make to an authorised officer at a specified place a payment of a fixed charge of an amount 50 per cent greater than the prescribed amount referred to in *paragraph (b)* of this section accompanied by the notice, duly completed,
- (d) if the registered owner of the vessel concerned was not using the vessel at the time of the commission of the alleged offence concerned, he or she is required by *subsection (4)* of this section—
 - (i) not later than 28 days after the date of the notice, to give or send to an authorised officer at a specified place a document in the prescribed form signed by the registered owner and stating the name and address of the person who was using the vessel at the time of such commission, and
 - (ii) to give or send to an authorised officer within such period as may be specified by him or her at a specified place such other information within his or her knowledge or procurement as the authorised officer may reasonably request for the purpose of identifying, and establishing the whereabouts of, the person referred to in *subparagraph (i)* of this paragraph,
- (e) a prosecution in respect of the alleged offence will not be initiated during the periods specified in the notice pursuant to *paragraphs (b)* and *(c)* of this subsection or, if a payment specified in the notice accompanied by the notice, duly completed, is made during the appropriate period so specified in relation to the payment, at all,

- (f) if a payment aforesaid accompanied by the notice, duly completed, is made during the appropriate period aforesaid, the registered owner need not comply with *subsection (3)* of this section,
- (g) if the registered owner complies with the said *subsection (4)*, a payment aforesaid need not be made by the registered owner and a prosecution of him or her in respect of the alleged offence will not be initiated, and
- (h) subject to *paragraph (f)* of this subsection, failure to comply with the said *subsection (3)* is an offence upon conviction of which the registered owner is liable to a fine not exceeding €800.

(8) Where a notice is served or affixed under *subsection (2)* of this section or served under *subsection (4)* of this section—

- (a) a person or the person to whom the notice applies may, during the period specified in the notice, make to an authorised officer at the place specified in the notice a payment specified in the notice at the appropriate time so specified in relation to the payment accompanied by the notice, duly completed,
- (b) the authorised officer may receive the payment, issue a receipt therefor and retain it for disposal in accordance with the relevant Act referred to in *subsection (1)*, and no payment so received shall in any circumstances be recoverable by the person who made it,
- (c) a prosecution in respect of the alleged offence to which the notice relates shall not be instituted during the periods specified in the notice or, if a payment so specified is made during the period so specified accompanied by the notice, duly completed, in relation to the payment, at all,
- (d) in case the notice is served or affixed pursuant to *paragraph (b)* of the said *subsection (2)* and a payment aforesaid accompanied by the notice, duly completed, is so made, the registered owner need not comply with *subsection (3)* of this section, and
- (e) if the registered owner complies with the said *subsection (3)*, the payment aforesaid need not be made by the registered owner and a prosecution of the registered owner in respect of the alleged offence aforesaid shall not be initiated.

(9) In a prosecution for a fixed charge offence, it shall be presumed, until the contrary is shown that a payment pursuant to the relevant notice under this section accompanied by the notice, duly completed, has not been made.

(10) Where, in a case to which *subsection (2)(b)* of this section applies, the registered owner of the vessel concerned does not furnish in accordance with *subsection (3)* of this section the information specified in *paragraph (i)* of that subsection, then, in a prosecution of that owner for the alleged offence to which the notice under the said *subsection (2)(b)* relates, it shall be presumed, until the contrary is shown that he or she was using the vessel at the time of the commission of the said alleged offence.

(11) A notice which is affixed to a vessel under *subsection (2)* of this section shall not be removed or interfered with except by a person to whom the notice applies.

(12) A person who contravenes *subsection (3)* of this section shall, subject to *subsection (8)(d)* of this section, be guilty of an offence and a person who contravenes *subsection (11)* of this section shall be guilty of an offence.

(13) It shall be a defence for a person charged with an offence under *subsection (12)* of this section consisting of a contravention of *subsection (3)* of this section for the person to show that the information concerned was not within his or her knowledge or procurement and that he or she had taken all reasonable steps to obtain the information.

(14) In a prosecution for an offence under *subsection (12)* of this section consisting of a contravention of *subsection (3)* of this section, it shall be presumed, until the contrary is shown, that the accused person received the notice under this section to which the offence relates.

(15) In a prosecution of a person for—

(a) the alleged offence to which a notice under this section, served on the registered owner of a vessel, relates, or

(b) an offence under *subsection (16)* of this section,

a document, purporting to be a document under *subsection (3)* of this section stating the name and address of the person who was using the vessel at the time of the commission of the alleged offence referred to in *paragraph (a)* of this subsection and to be signed by that registered owner, given or sent under *paragraph (i)* of that subsection by that owner to an authorised officer shall, until the contrary is shown, be deemed to be such a document and to be so signed and, in case the prosecution is for the offence referred to in *paragraph (a)* of this subsection, shall be admissible as evidence, until the contrary is shown, of the facts stated in it.

(16) A person who, pursuant to *subsection (3)* of this section, gives or sends to an authorised officer information (whether or not contained in a document) that is, to his or her knowledge, false or misleading shall be guilty of an offence.

(17) Notwithstanding the provisions of *section 10(4)* of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under *subsection (12)* of this section consisting of a contravention of *subsection (3)* of this section may be brought at any time within 2 years from the date on which the offence was committed.

(18) (a) The Authority may authorise in writing such and so many persons as it may determine to perform the functions conferred on authorised officers by this section; and a person so authorised shall, when performing any such function, if so requested, produce to the person who made the request the authorisation of the Minister under this section or a copy of it.

(b) The Authority may revoke an authorisation under this subsection.

(19) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed a fixed charge offence, the authorised officer may request of the person his or her name and address and, if the person does not comply with the request or gives a name or address that is false or misleading, he or she shall be guilty of an offence.

(20) The Minister may make regulations for enabling this section to have full effect and any such regulations in relation to fixed charges referred to in *subsection (6)* of this section may specify different amounts in relation to different fixed charge offences and to such offences involving different classes of vessel and to such offences committed in different areas.

(21) In this section “authorised officer” means a person appointed by the Authority for the purposes of this section.”

—Thomas Broughan.

7. In page 11, to delete lines 36 to 38 and substitute the following:

“ “fishing gear” includes any net, pot, trap, line, pole, dredge or other apparatus of any kind and any attachment of any kind thereto used or capable of being used for catching fish;”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

8. In page 12, between lines 34 and 35, to insert the following:

“ “Total Allowable Catch” means the quantity of certain species of fish permitted to be captured in respect of a particular period which is fixed by a regulation of the Council of the European Communities following the annual report to the Houses of the Oireachtas on the Sustainability Impact Assessment of Sea Fisheries in the Exclusive Economic Zone and Exclusive Fishing Limits of Ireland.”.

—Thomas Broughan.

9. In page 13, line 5, after “purposes” to insert the following:

“being purposes consistent with the law of the State concerning the Exclusive Economic Zone and the Exclusive Fishing Limits of the State”.

—Thomas Broughan.

10. In page 13, line 18, after “purposes” to insert the following:

“being purposes consistent with the law of the State concerning the Exclusive Economic Zone and the Exclusive Fishing Limits of the State”.

—Thomas Broughan.

11. In page 13, line 28, after “boats” to insert the following:

“including the requirement for every foreign fishing boat to report to an Irish fishery harbour or other port so designated by the Minister during each or any entrance by such a vessel into the territorial seas of the State”.

—Thomas Broughan.

12. In page 13, line 28, after “boats.” to insert the following:

“Such regulations may include the requirement that foreign sea-fishing boats provide evidence to a sea-fisheries protection officer prior to entering our exclusive fishery limits of their up to date individual quota allocation as determined within their own national fishing quota management system under the total allowable catch regulations agreed by the Council of European Communities.”.

—Eamon Ryan.

13. In page 13, line 36, after “so” to insert the following:

“following full disclosure by a person on board a foreign sea-fishing boat of the total allowable catches pertaining to that sea-fishing boat under the national quota of the state of origin of the boat as transmitted to the Fishery Monitoring Centre of Ireland from the Fishery Monitoring Centre of the foreign state in question and the European Union Fishery Control Centre”.

—Thomas Broughan.

14. In page 13, line 40, after “Regulation” to insert the following:

“which has been specified to be a Community Regulation to which this subsection applies by regulations made by the Minister with the approval of both Houses of the Oireachtas”.

—Thomas Broughan.

15. In page 14, between lines 33 and 34, to insert the following subsection:

“(3) A notice shall provide for an adequate period of time in order for the owner and master of an Irish sea-fishing boat to which the notice applies, and persons on board such boat, to comply with a notice.”.

—Thomas Broughan.

16. In page 15, line 12, after “voyage” to insert the following:

“allowing for the possibility on safety grounds of a change in destination port resulting from *force majeure* or enforced circumstances beyond the control of the master of an Irish sea-fishing boat”.

—Thomas Broughan.

17. In page 16, line 14, to delete “, charterer or hirer”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

18. In page 18, to delete lines 6 and 7.

—Thomas Broughan.

19. In page 18, line 9, after “form” to insert the following:

“provided that a mechanism exists and has been operated to confirm that the electronic communication has been read by the recipient”.

—Thomas Broughan.

20. In page 18, line 42, after “authorisation” to insert the following:

“or in the case of foreign sea-fishing boat may refuse access for a period to Irish exclusive fishery limits”.

—Eamon Ryan.

21. In page 18, line 45, after “form” to insert the following:

“provided that a mechanism exists and has been operated to confirm that the electronic communication has been read by the recipient”.

—Thomas Broughan.

22. In page 19, lines 10 and 11, to delete “, charterer or hirer”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

23. In page 19, after line 42, to insert the following:

“Powers under
section 13.

14.—(1) The Minister may, by Order, delegate his or her functions under *section 13* to a body specified in such Order in relation to the management of—

- (a) a particular stock or group of stocks,
- (b) a particular stock or group of stocks in a geographical area, or
- (c) a class or type of boat used to catch sea-fish, being sea-fish of a particular stock or group of stocks.

(2) An Order under *subsection (1)* may contain such ancillary and supplementary provisions as appear to the Minister to be desirable for the Order to have full effect and shall, in particular, provide—

- (a) that a person provide, in respect of a boat, such security as the body, with the consent of the Minister, considers appropriate to the Authority,
- (b) that the body provide, in respect of boats participating in fishery, such security to the Authority as the Minister considers appropriate,
- (c) the amount (not being less than twice the value, estimated by the Minister, of the fish that the sea-fishing boat to which an authorisation relates may catch pursuant to that authorisation), and
- (d) the amount not being less than twice the value, estimated by the Minister, of the stock or group of stocks in respect of which the delegation under *subsection (1)* relates.

(3) Where a person provides security pursuant to an Order under *subsection (2)* of this section, the person shall not—

- (a) catch or retain on board a sea-fishing boat a species of fish other than a species to which the authorisation relates,
- (b) catch or retain on board a sea-fishing boat a quantity of a species of fish in excess of an amount permitted by the authorisation,
- (c) use or cause or permit another person to use a net or other appliance unless such use is permitted by the authorisation,
- (d) retain on board a fish, being a fish of a particular species, size or description unless permitted by the authorisation,
- (e) fish or attempt to fish other than in such area as may be permitted in the authorisation, or

- (f) fish, attempt to fish or have sea-fish on board a sea-fishing boat other than during periods permitted by the authorisation.
- (4) Where, in relation to a sea-fishing boat to which an authorisation relates, a breach of an authorisation (or a previous authorisation) is detected—
- (a) the security pursuant to an Order under *subsection (2)* stands forfeit, or
 - (b) if, in the opinion of the person or body to whom the Minister has delegated his or her functions under *section 13* of this Act, the breach is of a technical or minor nature, such percentage of the security pursuant to *subsection (2)* as the person or body may determine stands forfeit.
- (5) Where a body, to which the Minister has delegated his or her functions under *section 13*, proposes to act under *subsection (4)*, the body shall—
- (a) notify the person concerned of the proposal and the reasons therefor,
 - (b) allow the person concerned to make representations in relation to the proposal within 21 days, and
 - (c) confirm, modify or annul the proposal.
- (6) Where a body, to which the Minister has delegated his functions under *section 13*, in the opinion of the Authority, fails to perform its functions in a fair equitable, accountable and transparent manner, the Authority may, with the consent of the Minister, appoint a person to exercise the functions of the body.
- (7) Where the Authority appoints a person under *subsection (6)*, he or she shall act as if he or she is the body to which the Minister delegated his or her functions under *section 13*.
- (8) Where the Authority appoints a person under *subsection (6)*, the security under *subsection (2)(b)* stands forfeit to the Authority and may be used by the appointed person to defray the costs of him or her exercising the functions of the body.
- (9) (a) Where *subsection (4)* applies, the authorisation relating to the boat to which the forfeiture relates stands, as a consequence—
- (i) in the case of a first occurrence, void for a period of not less than 30 days,
 - (ii) in the case of a second occurrence, void for a period of not less than 60 days, or
 - (iii) in the case of a third or subsequent occurrence, void for a period of not less than 100 days.
- (b) in *subsection (9)(a)*, “the period of days” means a period of days from the forfeiture each of which would (but for the forfeiture) have been a day on which it was otherwise lawful to fish for the stock or group of stocks.
- (c) Where *subsection (4)* applies and the security pursuant to an Order under *subsection (2)* stands forfeit on the detection of a first breach, under *subsection (2)* the following will apply:
- (i) that a person provide, in respect of a boat, such security as the body, with the consent of the Minister, considers appropriate to the Authority;

- (ii) that the body provide, in respect of boats participating in fishery, such security to the Authority as the Minister considers appropriate;
- (iii) the amount (not being less than four times the value, estimated by the Minister, of the fish that the sea-fishing boat to which an authorisation relates may catch pursuant to that authorisation); and

the amount, not being less than four times the value, estimated by the Minister, of the stock or group of stocks in respect of which the delegation under *subsection (1)* relates.

(d) Where *subsection (4)* applies, and the security pursuant to an Order under *subsection (2)* stands forfeit on the detection of a second breach, then under *subsection (2)* the following will apply:

- (i) that a person provide in respect of a boat such security as the body, with the consent of the Minister, considers appropriate to the Authority;
- (ii) that the body provide such security in respect of boats participating in a fishery to the Authority as the Minister considers appropriate;
- (iii) the amount (not being less than six times the value, estimated by the Minister, of the fish that the sea-fishing boat to which an authorisation relates may catch pursuant to that authorisation),
- (iv) the amount, not being less than six times the value, estimated by the Minister, of the stock or group of stocks in respect of which the delegation under *subsection (1)* relates.

(10) If, in a period of five years, a person forfeits a security three times in relation to a sea-fishing boat neither the person nor the boat may participate in fishing for the stock or group of stocks to which an authorisation formerly related for a period of one calendar year.

(11) Where a body to which the Minister has delegated his or her functions under *subsection (1)* acts under *subsection (4)*, proceedings shall not be instituted in relation to an offence mentioned in *Table 1* or *2* to *section 28*.

(12) If the State is penalised by the European Court of Justice for overfishing of a TAC or quota, the amount of the penalty shall be deducted by the Minister from the security of the body to which the Minister had under *section 13* delegated his or her functions in relation to the management of that TAC or quota.”.

—John Perry.

- 24.** In page 21, lines 21 and 22, to delete all words from and including “The” in line 21 down to and including “policy” in line 22 and substitute the following:

“Notwithstanding the common fisheries policy, the Minister may”.

—Thomas Broughan.

- 25.** In page 22, between lines 17 and 18, to insert the following:

“(vi) A requirement for all Irish and foreign fishing boats to provide by electronic format daily information on the recent quota allocation and landing information in relation to the boat,”.

—Eamon Ryan.

26. In page 23, line 12, to delete “Secretary General” and substitute “Minister”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
27. In page 23, to delete lines 22 to 26.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
28. In page 23, line 27, to delete “Secretary General” and substitute “Minister”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
29. In page 24, line 30, to delete “nets,”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
30. In page 24, line 34, to delete “nets or”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
31. In page 24, lines 43 and 44, to delete “net or”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
32. In page 26, lines 13 and 14, to delete “Secretary General” and substitute “Minister”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
33. In page 26, line 28, after “any” where it firstly occurs to insert “fishing gear or”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
34. In page 26, line 32, after “any” to insert “fishing gear or”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
35. In page 26, line 48, after “any” to insert “fishing gear,”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
36. In page 27, line 9, to delete “the persons on board” and substitute the following:
“such of the persons on board whose detention in respect of whom proceedings for an offence have been or are about to be instituted”.
—Thomas Broughan.

37. In page 27, lines 10 and 11, to delete “the persons on board” and substitute the following:

“such of the persons on board whose detention in respect of whom proceedings for an offence have been or are about to be instituted”.

—Thomas Broughan.

38. In page 27, lines 48 and 49, to delete “those persons” and substitute the following:

“such of the persons on board whose detention in respect of whom proceedings for an offence have been or are about to be instituted”.

—Thomas Broughan.

39. In page 28, between lines 21 and 22, to insert the following subsection:

“(2) As far as practicable following detention under the Act of 2003 or this Act, a person against whom proceedings for an offence have been or about to be instituted shall be afforded access (by electronic or telecommunication device means or otherwise) to legal advisers without unreasonable delay.”.

—Thomas Broughan.

40. In page 28, between lines 32 and 33, to insert the following:

“(4) Where a sea fisheries officer has, in exercise of the powers conferred on him or her, concluded that an offence has been committed which falls under the schedule set out in *section 28, Table 3**, he or she shall advise the master of the vessel that he or she has the right to elect to pay an administrative penalty as set out in *section 28, Table 3**, if eligible.

(5) If the vessel on which the alleged offence is suspected of taking place is in a port at the time the Sea Fisheries Protection Officer forms his or her suspicion, and the owner elects to pay an administrative penalty in accordance with *subsection (5)* above, the Sea Fisheries Protection Officer shall detain the vessel and all persons on board until such time as payment of the fixed penalty has been effected to the satisfaction of the Sea Fisheries Protection Officer.

(6) If the vessel on which the alleged offence is suspected of taking place is not in port at the time the Sea Fisheries Protection Officer forms his or her suspicion, and the owner elects to pay an administrative penalty in accordance with *subsection (5)* above, the Sea Fisheries Protection Officer may detain the vessel and order the Master of the vessel to go directly to a specified port, pursuant to the payment of the fixed charge.

(7) A Sea Fisheries Protection Officer, if he or she is satisfied that payment of a fixed charge as previously agreed is not forthcoming, or if the Master is found to be ineligible or elects not to pay an administrative sanction in respect of the suspected offence, the Sea Fisheries Protection Officer may proceed in accordance with the provisions of the following provisions for proceedings to be instituted.

(8) In the event a fixed charge is applicable and a fixed penalty is selected and the amount of the administrative penalty applying has been paid to the satisfaction of the Sea Fishery Protection Officer, no proceedings shall be instituted against the vessel in question. Record of the imposition of a penalty shall be maintained by the Department.

(9) If an administrative penalty has been duly paid in respect of an offence, and if no other offences are alleged, the vessel in respect of which the fixed charge has been paid and the persons on board shall be released.”.

—Martin Ferris.

[*These are the appropriate references if amendment No. is accepted.]

41. In page 28, between lines 32 and 33, to insert the following:

“21.—A Sea-Fishery Protection Officer shall, in relation of any or all of the powers conferred on him or her under *sections 17, 18, 19 and 20*, exercise such powers subject any rights of the person suspected of committing an offence to voluntarily elect to pay an Administrative Penalty in respect of the suspected offence, subject to the following:

- (a) the relevant offence is eligible to be the subject of payment of an administrative penalty;
- (b) the person suspected of the offence is eligible to pay an administrative penalty in respect of the alleged offence.”.

—Martin Ferris.

42. In page 31, line 5, before “Where” to insert the following:

“Having regard to the provisions of *section 19* and”.

—Martin Ferris.

43. In page 31, lines 40 and 41, to delete “is lawfully requested of him or her” and substitute the following:

“on board is lawfully requested of the master of a sea fishing boat”.

—Thomas Broughan.

44. In page 32, between lines 3 and 4, to insert the following subsection:

“(2) A person who fails to comply with an order given by a sea-fisheries protection officer under *section (18)* to the master of a sea-fishing boat or to stop, or to go directly to a specified port or to disobey or disregard requests for them in relation to manoeuvring directions from a sea-fishery officer commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months or to both,
- (b) on conviction on indictment, to a fine or an imprisonment for a term not exceeding 5 years, or to both.”.

45. In page 33, to delete lines 34 to 42, to delete pages 34 and 35 and in page 36, to delete lines 1 to 32* and substitute the following:

“Fixed penalties.

28.—(1) In the case of a conviction under *section 8* and *9*, and in the case of a conviction under any provision mentioned in a table, it may order the forfeiture of all or any fish and fishing gear found on the boat to which the offence relates.

(2) As soon as may be, following the passage of this Act and no later than 1st January 2007, the Minister shall prescribe and publish a list of fishery offences under the Sea Fisheries Acts 2003 and 2006, to be administered by means of fixed penalties. This list shall contain a precise description of each fishery offence and the associated monetary level of the fixed penalty. Prior to publication of the list, the Minister shall consult both the Sea-Fisheries Protection Authority defined in *Chapter 5* of this Act and the Sea-Fisheries Protection Consultative Committee defined in *section 48*.

(3) The Minister may amend the list referred to in *subsection (1)* from time to time, following consultation with the Sea-Fisheries Protection Authority and the Sea-Fisheries Protection Consultative Committee.

(4) The fixed penalties for the listed fishery offences of the Sea Fisheries Acts 2003 and 2006 shall not preclude the application of any other penalties as prescribed in this Act for serious and repeated sea fishery offences.”

—John Perry.

[*Note: A printing error has resulted in incorrect line references in page 36 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 36 of the Bill.]

46. In page 34, between lines 40 and 41, to insert the following:

“(c) Insofar as the categories of offences in *Table 3** (as amended – see table) is abbreviated, this subsection describes the offences:

“Logbook offences” means any failures to maintain prescribed EU logbook records in the manner required in Community regulations;

“Exceeding quotas” means any vessel which is found to be carrying in excess of the prescribed maximum quantities of any species which is the subject of a limit as established by Statutory Instrument in Ireland or in the case of vessels from other EU countries, limits duly established in law in that country;

“Illegal fishing gear” means nets or any other equipment whose characteristics do not comply with regulations in force for any particular area as set out in Community regulations;

“No fishing license” means any sea fishing vessel not in possession of a valid fishing license issued by the authorities in any EU country or by the EU, as required;

“Notification of Landings” means contravention of any Community regulation made specifying advance notice of landings;

“VMS” means failure to comply with EU regulations governing the operation of vessel monitoring systems;

“Undersize fish” means any fish of any species which is less than the minimum size as defined in community or Irish regulations.”.

—Martin Ferris.

[*This is the appropriate reference if amendment No. is accepted.]

47. In page 35, between lines 9 and 10, to insert the following:

“(c) and in the event that the alleged offences fall within the scope of *section 28, Table 3** and where the master of the vessel has not elected to pay an administrative penalty in respect of the alleged offence,”.

—Martin Ferris.

[*This is the appropriate reference if amendment No. is accepted.]

48. In page 35, between lines 21 and 22, to insert the following subsection:

“(8) Nothing in this section shall prevent the Minister from bringing forward a table of administrative penalties including on the spot fines, penalty points and graduated fines under the auspices of the Sea-Fisheries Protection Authority.”.

—Thomas Broughan.

49. In page 35, to delete lines 34* to 56* and substitute the following:

1.	Section 11, 14 or 15 in so far as it relates to—			
(a)	a contravention relating to fish storage capacity of a sea-fishing boat,	€10,000	€25,000	€50,000
(b)	illegal nets or other equipment, or	€10,000	€20,000	€30,000
(c)	any other contravention or failure of compliance.	€5,000	€10,000	€17,500
2.	Section 8(2), 9 (3) or 10(2).	€10,000	€25,000	€34,500
3.	Section 12 or 13.	€5,000	€10,000	€17,500

—Thomas Broughan.

[*Note: A printing error has resulted in incorrect line references in page 35 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 35 of the Bill.]

50. In page 36, to delete lines 13* to 32* and substitute the following:

1.	Section 4(12) (fishing without or in contravention of sea-fishing boat licence).	€10,000	€25,000	€37,500
2.	Section 25(3) (fishing in contravention of conservation regulations).	€10,000	€25,000	€50,000
3.	Section 27(5) (failure to return to port immediately on order of sea- fisheries protection officer).	€10,000	€25,000	€50,000

—Thomas Broughan.

[*Note: A printing error has resulted in incorrect line references in page 36 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 36 of the Bill.]

51. In page 36, between lines 32* to 33*, to insert the following:

“TABLE 3 - FINES UNDER ADMINISTRATIVE SANCTIONS

LOGBOOK OFFENCES	QUALIFYING ELEGIBILITY FOR APPLICATION OF FIXED PENALTY	PENALTY FOR 1ST OFFENCE	PENALTY FOR SECOND OFFENCE
Failure to record catch	unrecorded catch is valued at less than €3,000	200% of value of unrecorded catch	400% of value of unrecorded catch
Exceeding legal tolerances for quantities as per regulations	value of catch outside tolerances is less than €3,000	200% of value of unrecorded catch	400% of value of unrecorded catch
Incorrect recording of statistical rectangles as per regulations	where maximum fixed penalty would be less than €3,000	20% of value of catch on board	40% of value of catch on board
Failure to record entry/exit as per regulations	where maximum fixed penalty would be less than €3,000	20% of value of catch on board	40% of value of catch on board
Failure to complete landing declaration as per regulations	where maximum fixed penalty would be less than €3,000	20% of value of catch on board	40% of value of catch on board

Failure to submit logsheet to authorities as per regulations	where maximum fixed penalty would be less than €3,000	20% of value of recorded catch	40% of value of recorded catch
FISHING GEAR			
Use of mesh size < 5% below regulation	where maximum fixed penalty would be less than €3,000	100% of value of catch on board	150% of value of catch on board
Use of mesh size from 5% to 10% below regulation	where maximum fixed penalty would be less than €3,000	150% of catch on board	200% of value of catch on board
NOTIFICATION OF LANDING			
Failure to notify landing in advance as required	where maximum fixed penalty would be less than €3,000	200% of value of total catch	400% of value of total catch
UNDERSIZE FISH			
Undersize fish < 5% of a species held aboard	where maximum fixed penalty would be less than €3,000	100% of value of total catch	200% of value of total catch
Undersize fish from 5% to 10% of a species held aboard	where maximum fixed penalty would be less than €3,000	150% of value of total catch	300% of value of total catch
SATELLITE MONITORING			
Failure to have VMS system operating while away from port			
vessel under 15 metres overall length		€750	€1,500
vessel between 15 and 24 metres overall length		€2,000	€4,000
vessel over 24 metres		€3,500	€5,000
Failure to report VMS system not functioning while away from port			
vessel under 15 metres overall length		€750	€1,500
vessel between 15 and 24 metres overall length		€2,000	€4,000
vessel over 24 metres		€3,500	€5,000
Failure to notify VMS system switched off in port			

vessel under 15 metres overall length		€750	€1,500
vessel between 15 and 24 metres overall length		€2,000	€4,000
vessel over 24 metres overall length		€3,500	€5,000
DOCUMENTATION			
Failure to carry prescribed Licenses / Permits on board as per regulations		€1,000	NORMAL PROCEDURE
Failure to carry approved capacity plan on board as per regulations		€1,000	NORMAL PROCEDURE
Failure to carry Registration Documentation on Board as per regulations		€1,000	NORMAL PROCEDURE
FISHING IN PROHIBITED AREA			
Fishing no more than 1 nautical mile inside nearest point of boundary of prohibited area	where maximum fixed penalty would be less than €3,000	150% of value of total catch	200% of value of total catch

—Martin Ferris.

[*Note: A printing error has resulted in incorrect line references in page 36 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 36 of the Bill.]

52. In page 36, line 34*, after “any” to insert “fishing”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

[*Note: A printing error has resulted in incorrect line references in page 36 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 36 of the Bill.]

53. In page 37, to delete lines 44 to 47 and in page 38, to delete lines 1 to 5.

—Thomas Broughan.

54. In page 38, line 5, after “appealable” to insert the following:

“, save for an appeal to the High Court on a point of law”.

—John Perry.

55. In page 38, line 22, to delete “2004” and substitute “2003”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
56. In page 38, line 50, after “State” to insert the following:
“including a person who is a representative of the EU Fishery Control Centre”.
—Thomas Broughan.
57. In page 39, line 8, after “State” to insert the following:
“including a person who is a representative of the EU Fishery Control Centre”.
—Thomas Broughan.
58. In page 39, line 14, to delete “, the owner or the charterer” and substitute “or owner”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
59. In page 39, lines 15 to 18, to delete all words from and including “that” in line 15 down to and including “default.” in line 18 and substitute the following:
“that—
(a) he or she used due diligence to prevent the commission of the acts alleged to constitute the offence and they were done without his or her consent, connivance or default, or
(b) the acts were necessary to secure the safety of the boat or any other vessel or person in peril on the sea.”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.
60. In page 42, between lines 9 and 10, to insert the following:
“(h) to assist the Minister annually in preparing a Sustainability Impact Assessment of sea fisheries for the exclusive economic zone and exclusive fishing limits of the State (as defined in *sections 87 and 88*) for presentation to the Houses of the Oireachtas,”.
—Thomas Broughan.
61. In page 42, between lines 12 and 13, to insert the following:
“(i) to exchange information with other national and EU Sea Fisheries Protection Authorities,”.
—Thomas Broughan.
62. In page 42, line 45, after “16(1),” to insert “17(9),”.
—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

63. In page 46, to delete lines 40 to 46 and substitute the following:

“(5) The Consultative Committee shall consist of not more than 14 members comprising—

(a) representatives of the following sectors:

(i) sea-fishing catching;

(ii) inshore fishing;

(iii) seafood processing;

(iv) aquaculture;

and

(b) other persons with particular expertise or experience in relation to marine matters (including marine environment and marine research) of relevance to the functions of the Authority.”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

64. In page 46, to delete lines 40 to 46 and substitute the following:

“(5) The Consultative Committee shall consist of not more than 14 members who shall be nominated by the Minister. The committee shall include representatives from sea-fisheries, inshore fisheries, the seafood processing industry, the aquaculture sector, non governmental organisations with an interest in marine issues and independent and educational marine research institutions.”.

—Eamon Ryan.

65. In page 47, lines 18 and 19, to delete all words from and including “referred” in line 18 down to and including “(5)” in line 19.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

66. In page 47, line 31, to delete “*paragraphs (a) to (d)*” and substitute “*paragraph (a)*”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

67. In page 48, line 39, to delete “sea-fishery” and substitute “sea-fisheries”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

68. In page 64, between lines 37 and 38, to insert the following:

“Continental shelf of State lying outside the exclusive economic zone of the State.

88.—(1) The continental shelf of the State is the area beyond and adjacent to the territorial seas and prescribed for the purposes of section 2(3) of the Continental Shelf Act 1968.

(2) Over that part of the continental shelf that lies outside the exclusive economic zone, the State has the sovereign rights and jurisdiction and other rights and duties referred to in *section 54(4)* insofar as they relate to the seabed and its subsoil or are reasonably incidental thereto, and includes, for purposes prescribed by the Minister, the waters above such seabed.”.

—Thomas Broughan.

69. In page 64, between lines 40 and 41, to insert the following:

“Extent of State.

89.—The territorial seas, the exclusive economic zone and the continental shelf of the State are part of the State and, unless otherwise provided by law, the law of the State shall apply in and in relation to such areas.”.

—Thomas Broughan.

70. In page 70, line 10, after “Minister” to insert “for Transport”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

71. In page 74, between lines 23 and 24, to insert the following:

“Avoidance of flags of convenience.

100.—(1) This section applies where a person applies to the Minister, under section 21 of the Mercantile Marine Act 1955, to register a ship under the law of another country, the ship concerned being one that—

(a) is registered at a port in the State, and

(b) regularly proceeds to sea from a port in the State to any other port in the State or to a port in any other Member State.

(2) The Minister may on the application of a person to whom this section applies, consent to such registry by that person if but only if—

(a) that person is a national of a Member State or a body corporate established under and subject to the laws of a Member State,

(b) the port at which it is proposed to register the ship is a port within a Member State.

(3) In this section, “Member State” means a Member State of the European Union and also includes the Channel Islands and the Isle of Man.

(4) In deciding under this section whether to consent to registration or not of a ship, the Minister shall—

(a) have regard to the United Nations Convention on the Law of the Sea, signed at Montego Bay, Jamaica, on the 10th December 1982, which entered into force on the 16th November, 1994, and which was ratified by the State on the 21st June, 1996,

(b) have regard in particular to the need to ensure that the registry in the State of a ship will not be closed or transferred to a port outside the State in any circumstances that would amount to breach by the State of the Convention, and

- (c) ensure that no recognition is given to the documents of registration issued by any other state to a ship in circumstances where no genuine link, within the meaning of the Convention, between that state and any ship concerned might exist.

(5) A person who registers a ship under the law of another state in contravention of this section is guilty of an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both,
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years, or to both.

(6) Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributed to any neglect on the part of, any person who, when the offence was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) is guilty of an offence and is liable to be proceeded against and punished as if guilty of the offence committed by the body corporate.”.

—Thomas Broughan.

72. In page 80, between lines 13 and 14, to insert the following:

- “(c) All rates, tolls or other charges payable pursuant to an order under subsection (2)(b) shall be invoiced in a timely and fully transparent manner to all users of the National Fishery Harbour Centres.”.

—Thomas Broughan.

73. In page 82, line 18, to delete “and”.” and substitute the following:

“and”,

and”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

74. In page 82, between lines 20 and 21, to insert the following:

“CHAPTER 8

Introduction of Single Stock Management System and Voluntary Buyout for Net Fishermen

Introduction of
Single Stock
Management
System and
Voluntary Buyout
for Net Fishermen.

105.—As soon as may be after the passing of this Act, the Minister and Secretary General shall bring to the House of the Oireachtas for approval a comprehensive scheme setting out details establishing the following:

- (a) a single stock management programme and system for wild salmon;
- (b) a voluntary buy-out/set-aside scheme for drift, draft, snap and loop net fishermen under the direction of the Seafood Control Manager;

(c) the structures and competence of the National Inland Fisheries Authority and the National and Regional Advisory Fisheries Councils.”.

—Thomas Broughan.

75. In page 82, line 35*, to delete “8, c.9” and substitute “8 [c.9]”.

—An tAire Cumarsáide, Mara agus Acmhainní Nádurtha.

*[*Note: A printing error has resulted in incorrect line references in page 82 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 82 of the Bill.]*